Preserve

App. F. IX-4

Previous References
Law-14-32-1-5

1933.
(Law)

File No. 39-33
Serial Nos. 1-8

Later References

PRESERVED (28)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Eight

Part B for May 34

SUBJECT.

Notice under sec 80 C.P.C issued on behalf of Vyasa-rayachar threatening a suit for raising the attachment of certain lands made for recovery of amount alleged to have been misappropriated by one Bheemachar par-pathyar Aswathanarayanadevaru at Mahishi.

8) 2

S. Ramachandra Rao Esqr. B.A.B.L.
Advocate, Shimoga

Govt. No. P 5163 dy 9-5-34

Informs that the Munz. Comr has been requested to issue necessary instructions to release the properties mentioned in the notice.

M. Abdul Azeez
16.5.34.

G. R. S. APP F. III—1] 1933. 2.

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 35-33

FILE HEADING.

Notice under sec 80 C.P.C.

FROM Mr. S. Ramachandra Rao, Adv. Shimoga

No., Dated 21.9.33 Received 22.9.33.

Diary No. 1630	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Issue notice on behalf of Mahosha Sreepathy Hanumaya Acharya, threatening a suit for vesting attachment of certain lands, said to have been made in connection with the recovery of certain amount alleged to have been misappropriated.

NOTES AND ORDERS.

1) Dft Calling for a report from the Mag. Comr. to put up. After same Mag. Br. may be regarded to put up any previous reports if any

ISD 22/9

2) Issue & put up for acknowledgment

MP 22/9

3) Dft acknowledgment to put up.

Law

4) Issue

MP 24/9/33

TYPING SECTION * 22 SEP 1933 * GENL. & REV. SECTT.

TYPING SECTION * 2 OCT. 1933 * GENL. & REV SECTT.

NOTES—First Sheet.

WD 01688—GPE—5,000—3-5-29

Serial No.

To.

The Mag. Comm^r

no. P. 1463 d 30.9.33 Calling for a report

Mr. S. Ramachandra Rao. Adv. Shimoga

Endo^t no. P. 1529 d 6.10.33 acknowledging the notice.

5) Mag. Bhr.(rec.) for favour of furnishing the previous ref^s if there are any

ISD 7/10.

Note 6) No information on the subject is available here. ~~Applt. has not referred to us.~~

~~Case.~~

Law Secn with Comts

G.V 9/10

Secy 9/10/33

Sus A 10/10/33

GENL. & REVENUE 389 7 OCT 1933

From,

The Mag. Comm^r

no. 493/33-34 d 21.11.33 forwarding a report together with the Connected records received from the DC Shimoga, on the notice.

7) One Bhimachar the late pamphlegar of the Sree Avatharanagamadevaru temple at Nathishi had misappropriated a sum of Rs 40/- from Pudivar fund of the temple. Subsequent to his death the alleged misappropriation was found out, and his personal properties were attached by the statute authorities for recovery of the said amount. A notice under sec 80 C.P.C was issued on behalf the Upanayaka the alleged purchaser of the land belonging to Bhimachar, threatening a suit

NOTE—Contn. Sheet.

2848

Law File No. 39 of 1933. | General and Revenue Secretariat

for raising the said attachment of the lands in question.

8) Sometime back the Taluk authorities attempted to adjust a sum of Rs 17-4-0 said to be due to the Son of the deceased Pampakeyya towards his remuneration for having worshipped several deities at Mahishi. On receipt of a notice on behalf of the minor Son in this matter, orders were issued to the D.C. Shimoga informing that the amount due to the Son is not liable for adjustment towards the Sum misappropriated by his father and that necessary action has to be taken to proceed against the personal properties of the deceased, if any

'2' (Law file 74-32)

9) Now that the D.C. Shimoga states that action has been taken accordingly and right title and interest in the properties of the deceased were advertised for sale on 14.10.33. The petitioner's Contention in the present notice is that he purchased the properties of the deceased through the guardian of the minor sons by a registered Sale deed, and that therefore they are not liable for the amount misappropriated

10) The amount due to Govt has to be treated as the first Charge on the properties of the deceased. The Contention raised therefore seems to be untenable. Threatened Suit may perhaps be awaited.

Subd for orders

15/9/34 11) The important question to be settled

Serial No.

first is whether the Sum said to have been misappropriated by Bhimachar (deceased) is liable to be recovered under the Revenue process, as an arrear of land revenue. Please examine this & note.

SDP
29/11/33

12) Under sec 11 of the Mys. Reg[n] VII of 1917 arrears of rent or revenue due to a Mys. Inst[n] may be treated as arrears of land revenue.

ISD
30/11

13) Is the amount to be recovered from Bhimachar "arrears of rent or revenue"?

SDP
1/12/33

14) It cannot be treated as arrears of revenue. Strictly speaking the Sons of Mr. Bhimachar are not liable for the amounts misappropriated by him since it involves certain amount of moral turpitude. But the properties left by the deceased were self acquired; It is for Consideration how far the amount is recoverable if the principle of pious obligation is enforced against the minor Sons. Even then a formal suit has to be filed against the minor Sons and their guardian under. As the amount misappropriated is very small it does not seem to be worthwhile to proceed with unnecessary litigation. D.C. may be asked to write off the amount.

ISD
2/12

NOTE—Contn. Sheet.

WD 0246 —GPB—15,000—22-8-32

Law File No. 39 of 1933. | General and Revenue Secretariat

15) Please put up a dft to the Mur. Comr enquiring as to under what authority & provision of law, the ~~due~~ amount due from Bhimachar in this case is being recovered as an arrear of land revenue

MNP
6/12/33

16) Dft put up accordingly
15D
5/12

17) Issue
MNP
5/12

Issued no. 1. 2700 d 12.12.33

TYPING SECT... & REV. SEC...

Sec A
12/12

From,

The Muz. Commr
no. 492/33-34 d 1.5.34 stating that he is of opinion that as there is no provision in the Muz. Regn to recover the Amount as land revenue, resort should be had to a Civil Court in the matter

Submitted for orders with ref. to paras 7-15 Supra

ISD
3/5

One Bhimachar when he was the Parapathyar of Sri Aswatha narayana temple at Malleshi is said to have misappropriated a sum of Rs 40/- belonging to the Padaval fund of the temple. About 4 years after

Serial No.

Bhimachar's death, this was discovered.

In 1930-31, a small sum of Rs 17 + odd was due to Bhimachar's son on account of services rendered by him - This was sought to be adjusted towards the amounts misappropriated by the father, but on a receipt of a ~~let~~ lawyer's notice protesting against this, the proposal was dropped.

Certain properties of late Bhimachar which were then proceeded against, and the amount attached from under the revenue laws. It appears these properties have been purchased by a third party from the guardian of the minor son of Bhimachar & this purchaser has now given a notice of suit against govt.

The amounts misappropriated by Bhimachar cannot be recovered as if they were arrears of land Revenue & the Hon'ble Court on being asked how this was done, now says that the local authorities have acted wrongly & that recourse must be made to a civil court.

The Hon'ble Court will therefore be requested to instruct the D.C. Shimoga to release the lands from attachment and to take action

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-31

7

5870

File No. of 193 . | General and Revenue Secretariat

to recover the amount by means of a civil suit if there are any unencumbered properties of Bhimachar still available and if he finds that a suit in the matter can now be instituted with success. The materials in the file are insufficient to give an opinion on this question of the maintainability of the suit.

Gen Secy) 3/5/34

Bhimachar is long dead & the sum involved is Rs 40/-. I doubt if it is worthwhile to pursue the matter.

Second Member. 3.5.34.

3/5

3/5

5.5.34.

7/5

Subject seen & dft and enc to the party.

7/5

7/5

OFFICE OF THE SECOND MEMBER OF COUNCIL - 5 MAY 1934 No. 1175

TYPING SECTION. 3-35 P.M. 7 MAY 1934 GENL. & R. SECTT.

5836 8

General and Revenue Secretariat | Law File No. 39 of 1933. | [App. F. III—2

Serial No.

To,

The Mly. Commr

No. P 5162 dt 9.11.33 informing that no further action is necessary.

Mr. S Ramachandra Rao, Addl. Shimoga

Endt no. P. 5163 dt 9.11.33 informing that Mly. Commr has been requested to issue necessary instructions to release the properties mentioned in the notice.

B
10/11/33

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-34

1630

To

The Chief Secretary, ~~The~~ Govt Of Mysore.

Bangalore.

From

S. Ramachandra Rao, B.A.,B.L.

Advocate, Shimoga.

Sir,

As per instructions of my client: Mahishi Sreepathy ~~Ge~~ Vyasaraya Acharya residing at Mahishi, I issue this notice under Sec. 80 C.P.C. which kindly note & acknowledge.

That one deceased Bhimachar of Mahishi, having been alleged to have misappropriated certain sums of money belonging to 'Puduvat' fund of Mahishi Sree AswathaNarayana temple, his properties situated at Holekoppa (Tirthalli tluk, Muthur Hobli) were directed to be proceeded against for the recovery of the said sum, by the orders of the Muzarai Commissioner.

That the allegation against the said deceased is that he recovered the said sum & passed a receipt to the depositor (Donator) during his lifetime; but failed to credit the same to the temple fund. This fact is said to have been noticed by the local authorities about 1932, long i.e.about 4 years after his (Bhimachar's) demise, which occured in March 1928.

It is learnt that the Muzrai Comr. has ordered directing the local authorities to proceed against such of the assets of the deceased as were available at the time of his demise. That in persuance of the said order the local Amildar attached the Scheduled properties which once belonged to the deceased, but no longer his.

That my client aforesaid has bonafide & for value purchased the said properties along with others from the guardian of the minor sons of the deceased, under a registered sale deed- which was produced before the Amildar & S.D.O.- dated 2/11/1931 without notice of any claim that may be advanced in future by Govt or any one else.

2

Since the date of sale my client has been in possession of the said properties, in his own right, paying their assessment to Govt.

That inspite of the said sale having been brou ght to the notice of the Amildar, he attached the Scheduled properties & proceeded to sell them in trying to recover the dues referred to above. That thereupom my client preferred a claim before the Amildar praying that the properties, having become his/as st ted above long before the Muzrai Comr ordered the institution of proceedings againdt the deceased's properties, they cannot be proceeded against in as much as the said dues were not a charge on them. My client therefore also prayed that the attachment may be raised.

That the Amildar, without considering the legal aspect of the case arising from the previous sale in ~~his~~ my client's favour, was pleased to summarily reject the claim petition. That the said order is opposed to law & facts, & not legally sustainble, My client having been in possession of the Sch. Properties, as a bonafide purcahser for value; & the local authorities have also been recovering arrears of assessment from him ever since the date of sale.

That it is therefore requested that the local authories may be directed to vacate the orders under which the Sch. properties are attached & put up for sale. That I further call upon you to take notice that in case the proceedings against the said properties are not immediately stayed, my client will be obliged to institute suit against the Govt. for getting all the above-mentioned amongst other reliefs in a court of law. In the latter event the Govt. will be liable for all costs, damages & loss that he will incur.

Schedule.

Lands S Nos 14, 17, 19 and other Lease hold situates in Holakoppa village - Hosahalli Jirthahalli Taluk

S Ramachandrappa

I Remain,

Yor most obedient servent,

S Rama chandra Rao

Advocate, Shimoga.

21 9 - '33

Appendix F G—1]

SUBJECT.....

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Section Law

File No. 39-33

Serial No. 1

Diary No. of letter replied to .....

No. J. 1463/Enl

To

The Hon. Com^r

General and Revenue Secretariat

( ) .

the *193* .

Sir

Date of issue 30/9/33

In forwarding herewith a Cp of the notice issued under sec 80 C.P.C. by Mr. S. Ramachandra Rao, Advocate Shimoga on behalf of Mahathi Sreepathy Upasaraya Acharya, threatening a suit for raising the attachment of certain lands, said to have been made in connection with recovery of certain amount alleged to have been misappropriated, I am directed to request that a report together with the Connected records may kindly be sent for perusal of Govt early

Signed by

List of enclosures.....

Copied by

Examined by.....

WD 0253—GPB—15,000—26-8-32

4.

G.R.S. 31] GPB—3,000—1-9 13

No. P 1463/Gen 1

From

The Secretary to the Government of His Highness
the Maharaja of Mysore, Genl. and Rev. Depts.

To

The Mūzrai Commissioner in Mysore,

Bangalore.

the 25th September 1933.

Genl. and Rev.
Secretariat.

Sir,

In forwarding herewith a copy of the notice issued under Section 80 C.P.C. by Mr. S. Ramachandra Rao, Advocate, Shimoga, on behalf of Mahishi Sreepathy Vyasaraya Acharya, threatening a suit for raising the attachment of certain lands, said to have been made in connection with recovery of certain amount alleged to have been misappropriated, I am directed to request that a report together with the connected records may kindly be sent for orders of Government early.

I have the honour to be,

S i r,

Your most obedient servant,

for Secretary to Government,
General Department.

K.".R.2/25-9.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

5

No. P-1527 / Law 89-333 Dated, Bangalore 5th October 192 1933

From The General Secretary to the Government of His Highness the Maharaja of Mysore,

---------- Department.

To

S.Ramachandra Rao, Esq., B.A., B.L.,
Advocate, Shimoga.

Sir,

I am directed to acknowledge receipt of your notice on behalf of Mahishi Sreepathy Vyasaraya Acharya threatening a suit in case the attachment of certain lands is not raised and to state that the matter is under enquiry.

I have the honor to be,

Sir,

Your most obedient servant,

For General Secretary to Govt.

c.n.

6

Appendix F G—1]

SUBJECT .....

.....

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Section Law

File No. 39-33

Serial No. 3.

Diary No. of letter replied to .....

No. C. 1527/

To Sri Ramachandra Rao Esq
B.A. B.L.
Adv, Shimoga

General and Revenue Secretariat

( )

the 193 .

Sir

I am directed to acknowledge receipt of your notice on behalf of Mahishi Sreepathy Vyasaraya Acharya intimating a Suit ~~for~~ in case the attachment of certain lands is not raised and to state that the matter is undergoing.

Date of issue 6/10/33

Signed by Jr N.N.J. Rao

I have etc.

ures.....

2

E.S.W

pre 4/10/33

for Secretary &c.

Examined by.....

No. 493/33-4
Eve 1 file

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, 21st November ..... *193* 3.

2848/P 33

FROM, N. Madhava Rau, Esq., B.A., B.L.,
~~XXXX

8

letter dated 5th January '33 addressed to you which are enclosed in the records.

I have the honor to be,
Sir,
Your most obedient servant,

Muzrai Commissioner.

Letter No.Muz.1.C.979/32-33 dated 11-11-33 from the Deputy Commissioner, Shimoga District, to the Muzrai Commissioner in Mysore.

Adverting to your Memo No.493/33-34 dated 7-10-33 forwarding a copy of the General Secretary's letter No.P.1463/Law 39-33-2 dated 30-9-33 together with its enclosure, a copy of the notice issued under Sec:80 C.P.C. by Mr. S.Ramachandra Rau, Advocate, Shimoga, on behalf of Mahishi Sripathi Vyasarayachar, threatening a suit for raising the attachment of certain lands made for the recovery of certain amounts alleged to have been misappropriated and calling for a detailed report with records, I have the honor to forward herewith a note containing the facts of the case and the connected records for reference and orders.

"COPY"

For Muzrai Commissioner.

Shimoga District.

Note:-

Copies of this office letter No.Muz.C.979/32-33 dated 5.1.1933 to the General Secretary and the Chief Secretary's letter No.P.4210 Law-74-32-4 dated 1/2.2.1933 sent in reply will explain the earlier history of the case pertaining to the notice issued by Mr. S, Ramachandra Rao, Advocate, Shimoga, on behalf of Sripathi Vyasarayachar.

As per para 2 of the Chief Secretary's letter, action was taken to recover the amount and the Right, title and Interest of Bhimachar in the lands S.No.14-17 and 19 of Halekoppa village, Thirthahalli Taluq were put up for sale on 25.7.1933. Mr. Ramachandara Rao, Advocate, presented a petition to the Sub Division Officer, Shimoga, putting up a claim on the grounds that the said properties along with others have been purchased by his client Vyasarachar for a reasonable consideration from Laxmibayi, wife of Bhimachar (late Parupathegar) of the Mahishi Aswatha Narayanaswami temple) and guardian of the minor sons on 2.11.1931, that Bhimachar's heirs or his minor sons have no claim over the property, that his creditors even cannot proceed on them, and that action taken for the recovery of the dues without obtaining a decree in a civil court was illegal, He therefore prayed that the properties might not be sold on any account. A stay order was issued and the Amildar was asked to enquire into the claim of the petitioner and issue an endorsement regarding the disposal of the claim.

The Amildar accordingly heard the petitioner and held that the properties in question are not self acquired by the mother of the minor sons, but form part of the assets of her deceased husband, Bhimachar and that they are liable to be proceeded against for the recovery of the amount misappropriated by Bhimachar, The Amildar therefore rejected the claim of the petitioner and issued an endorsement to him and ordered a fresh sale.

The Right, Title and interest of the above said properties were advertised for sale on 14.10.1933.

The Advocate has thereupon issued the notice in question.

As regards the decree amount said to have been due to Laxmibai, the Sub Judge, Shimoga has been requested to intimate if it is the property of Laxmibai or whether it forms part of the assets of her husband. His reply is not received yet.

P. Ramiah Gowda

Deputy Commissioner,
Shimoga District.

V.S.R.
11 xi 33.

12

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 2700 Laws

Bangalore, Dated, 9th December 1933.

12

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Muzrai Commissioner in Mysore,

Bangalore.

Sir,

With reference to your letter No.493/33-34, dated 21st November 1933 forwarding a report with the connected records regarding the notice issued on behalf of Vyasarayachar, I am directed to enquire under what authority or provision of law the amount misappropriated by the late Bhimachar, Parupathegar of Aswathnarayana temple at Mahishi is being recovered as an ax arrear of land revenue.

I have the honour to be,

Sir,

Your most obedient servant,

for General Secretary to Government.

Aga/2

Appendix F G—1]

SUBJECT .....

.....

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Section Law

File No. 39-33

Serial No. 5

Diary No. of letter replied to .....

No. P 2700/—

To

The Hy. Comr.

General and Revenue Secretariat

( )

the *193* .

Sir,

Date of issue 11/12/33

With reference to your letter no 033/1933 dated 21st Nov 1933 forwarding a report with the connected records re: the notice issued on behalf of Vyaravanachar, ~~requiring a sum for recovery of the attachment made of certain lands made for the recovery of the amount alleged to have been misappropriated by the Parupatheegar of Aswathanarayana devaru temple at Melukote~~

Signed by .....

~~has raised~~

List of enclosures .....

Copied by .....

Examined by .....

I am directed to enquire under what authority or provision of law, the amount misappropriated by Bhimachar is being attempted to be recovered as an arrear of land revenue.

I have the

Parupatheegar of Aswathanarayan temple at Melukote re late

ISD 8/12

BMP 5/12 for favour

S 834/1/33

No. 493
33-34

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE.

Bangalore, 27th April 193 4.

1/5

Law 39-33-6

FROM

N. MADHAVA RAU, ESQ., B.A., B.L.,
Muzrai Commissioner in Mysore,
Bangalore.

GENERAL SECRETARIAT
1 APR 1934

TO

S. Abdul Wajid, Esq., B.A.,
Secretary to the Government of Mysore,
General Department.

Sir,

With reference to correspondence ending with your letter No.P.2700/Law 39-33-5 dated 11-12-33, enquiring under what authority or provision of ~~the~~ law, the amount misappropriated by the late Bheemachar, Parpathegar of Sri Aswathanarayana-swami temple at Mahishi, is being recovered as an arrear of land revenue, I have the honor to state that the local officers seem to have proceeded to recover the amount on the authority of the Chief Secretary's letter No.P.4210/Law 74-32-4 dated [illegible]-33 addressed to the Deputy Commissioner, Shimoga District, which however does not state in what manner the recovery has to be made. I am of opinion that as there is no provision in the Muzrai Regulation to recover the amount as land revenue

15

resort should be had to a Civil Court in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

N W Thomas

Puzrai Commissioner.

16

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. 23762 Gen Sec

Bangalore, Dated, 1/8/ 193 4

From

General Secretary to the Government of His Highness the Maharaja of Mysore.

To

Sir,

With reference to the correspondence ending with your letter No.493/33-34 dated 1st May 1934 re - the notice issued on behalf of one Vyasarayachar threatening a suit for raising the attachment of certain lands made for recovery of amount alleged to have been misappropriated by one Bhimachar Parpathegar of Aswathanarayanadevaru at Mahishi I am directed to state that in the circumstances pointed out by you the recovery of the amount as an arrear of land revenue is illegal and that therefore necessary instructions may be issued to release the properties from attachment. Now that Bhimachar is long dead and the sum involved is only Rs.40 Government consider that it is not worthwhile to pursue the matter further.

The entire file of papers sent is herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

for General Secretary to Government.

ACH.3.

Appendix F G—1]

SUBJECT .....

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.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193* .

Date of issue 9/5/24

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section Law

File No. 3933

Serial No. 7

No. P 5162/Ex Rec

To The Rev. Commr

Sir,

With reference to the Correspondence ending with your letter no. 6932/3344 dated 1st May '24 re: the notice issued on behalf of one Vyasarayachar threatening a suit for raising the attachment of certain lands made for recovery of amount alleged to be due have been misappropriated by one Bhimacher Parpatteyar of Amarasayanadevanam at Kalishi. I am directed to state that in the circumstances pointed out by you, the recovery of the amount Bhimachar's loan due as an arrear of land revenue is illegal and no suit instituted is maintainable & that therefore necessary instructions may be issued to release the properties from attachment. Now that Bhimachar

WD 0677—GPB—15,000—3-11-83

Sis long dead and the sum involved is only Rs 40/-
for consider that it is not worthwhile
to pursue the matter further.

I am now free to
request you to give instructions
to release the property from
attachment
in the entire file of papers
sent is herewith returned.

I have etc

ISO
7/5

7/5 for Gen Sec'y

Copy to the DC Shimoga
for information

19

Appendix F G—1]

SUBJECT .....

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.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the 193 .

Date of issue 9/5/34

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section Law

File No. 39-33

Serial No. 8

No. PB 163

To S. Ramachandra Rao Esq B.A, B.L,
Advocate, Shimoga.

In Continuation of this office Endorsement No. P. 1529 d 6.10.33 re: the notice issued under Sec 88 C.P.C. on behalf of Sheristadar Vijayaraghavachar, Mr. S. Ramachandra Rao Advocate is hereby informed Hon'ble Court has been requested that the Deputy Commissioner Shimoga to issue necessary instructions to release the aforementioned ~~property~~ properties from attachment.

B.O.

7/5 for Secretary

159 7/5

No P 5164/Cos to the Hon'ble Court

~~DC Shimoga~~